

REMARKS

Claims 1-18 have been examined. Claims 1, 5, 9 and 11 have been rejected under the doctrine of obviousness-type double patenting. Also, the Examiner has indicated that claims 6 and 12-18 contain allowable subject matter.

I. Objection to the Claims

Claims 7 and 13 have been objected to due to minor informalities. Accordingly, Applicant has amended claims 7 and 13. Such amendments are merely to correct minor antecedent basis errors, are not made in response to prior art rejections and do not narrow the scope of the claims.

II. Double Patenting Rejection

The Examiner has rejected claims 1, 5, 9 and 11 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,315,468 B2 to Kishida et al. ("Kishida").

A. Claim 1

Claim 1 recites that a stopping position of a carriage in a mount portion of a capping device is adjusted based on adjustment information of a platen gap adjuster.

The Examiner maintains that the above feature is equivalent to the control means of claim 1 of Kishida. However, Applicant submits that the Examiner is misinterpreting and/or misapplying the claim. For example, the control means of Kishida is for driving a platen-gap

regulating means to hold a fixed relative position between recording heads and a capping means, and the recording heads and a cleaning member. In other words, the platen-gap regulating means is driven "to hold" a fixed position when the recording head is located in a cleaning position.

Thus, claim 1 of the present Application adjusts a stopping position based on information of a platen gap adjuster. On the other hand, claim 1 of Kishida teaches to hold a position, without any reference or reliance on adjustment information.

Accordingly, Applicant submits that claim 1 is not rendered obvious over claim 1 of Kishida, and respectfully requests the Examiner to withdraw the double-patenting rejection.

B. Claim 5

Since claim 5 is dependent upon claim 1, Applicant submits that claim 5 is patentably distinct from claim 1 of Kishida for at least similar reasons as presented above.

C. Claim 9

Claim 9 recites that a flushing requirement is judged as to whether or not a flushing operation is required.

The Examiner maintains that claim 9 is unpatentable over claim 3 of Kishida. However, claim 3 of Kishida does not suggest judging a flushing requirement to see whether or not a flushing operation is required. Rather, in claim 3 of Kishida, cleaning will always be performed once a cleaning instruction is received. The claim states that once the cleaning instruction is

received, the ink jet recording apparatus judges a gap between a nozzle opening surface and a capping unit to see if the gap is a predetermined distance for performance of the cleaning. If the gap is not the predetermined distance, it is controlled to become the predetermined distance. After the gap is controlled to be the predetermined distance, cleaning of the recording heads is (and always will be) commenced.

Accordingly, the judging of a gap in claim 3 of Kishida is not equivalent to the judging of a flushing requirement of claim 9 of the present Application. In other words, once the cleaning control method of claim 3 of Kishida progresses to the judgment portion of the method, it has already been determined that cleaning of the recording head is to be performed. Therefore, Applicant submits that claim 3 of Kishida does not suggest judging a flushing requirement to see whether or not a flushing operation is required.

Accordingly, Applicant submits that claim 9 is not rendered obvious over claim 3 of Kishida, and respectfully requests the Examiner to withdraw the double-patenting rejection.

D. Claim 11

Since the judgement of a capping requirement of claim 11 is analogous to the judgment of a flushing requirement of claim 9, Applicant submits that claim 11 is not rendered obvious over claim 3 of Kishida for analogous reasons as presented above.

III. Claims 2-4 and 10

On page 7 of the Office Action, the Examiner states that claims 2-4 and 10 are well known in the art and can be rejected by an art rejection. However, this statement does not create a prima facie case of obviousness, nor does it satisfy the Examiner's burden of finding anticipation. Therefore, Applicant respectfully requests the Examiner to cite prior art and present reasons for a showing of obviousness or anticipation of claims 2-4 and 10 in view of the art cited.

IV. Allowable subject matter

The Examiner has indicated that claims 12-18 are allowed for the reasons of record, and claim 6 contains allowable subject matter.

Since the Examiner did not reject claim 7 under 35 U.S.C. § 102 or 35 U.S.C. §103, Applicant assumes that claim 7 also contains allowable subject matter.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment under 37 C.F.R. § 1.111
U.S. Application No. 10/068,007

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

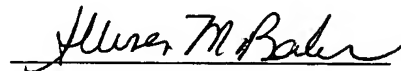
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